EXPLANATORY MEMORANDUM TO

THE HOUSING (EMPTY DWELLING MANAGEMENT ORDERS) (PRESCRIBED PERIOD OF TIME AND PRESCRIBED REQUIREMENTS) (ENGLAND) (AMENDMENT) ORDER 2026

2026 No. 1085

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook, Minister of State for Housing and Planning at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Rebecca Egan, Deputy Director for Housing Strategy, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Officials at the Ministry of Housing Communities and Local Government can be contacted by email at the following address with any queries regarding the instrument: ellen.mccarthy@communities.gov.uk

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This statutory instrument will reform Empty Dwelling Management Orders (EDMOs). The EDMO regime was introduced by the Housing Act 2004 ("the Act"), and enabling secondary legislation in 2006. The secondary legislation was subsequently amended in 2012.

4.2 As set out in sections 134 and 135 of the Act, local authorities must apply to the First-tier Tribunal (Property Chamber) for authorisation to make an EDMO. This follows a two-staged process. Firstly, a local authority may seek an interim EDMO to allow the authority to let out the dwelling with the proprietor's consent. Following this, if no agreement can be made with the proprietor, a final EDMO allows a local authority to take over the possession and management of the property.

4.3 As set out in section 133 of the Act, ahead of making an interim EDMO, a local authority must make reasonable efforts to notify the owner of the empty dwelling that they are considering making an interim EDMO, and must try to ascertain what steps the owner is taking or intending to take to ensure the property is occupied.

4.4 Once made, EDMOs permit local authorities to take over management of empty properties for up to seven years. While an EDMO is in force, a local authority has the right to possession of the dwelling and may do anything the relevant proprietor would otherwise be entitled to, including offering the property for rental. However, the local

authority does not acquire an estate or legal interest in the dwelling and cannot therefore sell or otherwise dispose of the dwelling.

4.5 This statutory instrument will reduce the time a property has to be unoccupied before a local authority is eligible to apply for an EDMO. Under Article 2 of the Housing (Empty Dwelling Management Orders) (Prescribed Period of Time and Additional Prescribed Requirements) (England) (Amendment) Order 2012, the period of time for which a property must be wholly unoccupied before the First-tier tribunal (Property Chamber) may authorise a local housing authority to make an interim EDMO is two years. The time is being reduced to six months.

4.6 It will also remove the requirement for local authorities to provide the First-tier Tribunal (Property Chamber) with information regarding whether the property is causing a nuisance for the community and whether the community is supportive of a proposed interim EDMO. These requirements were added to Article 4 of the Housing (Empty Dwelling Management Orders (Prescribed Exceptions and Requirements) (England) Order 2006 as part of the Housing (Empty Dwelling Management Orders) (Prescribed Period of Time and Additional Prescribed Requirements) (England) (Amendment) Order 2012.

Where does the legislation extend to, and apply?

4.7 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.8 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 There are currently around 303,000 homes which have been empty for six months or more. Empty homes can be burdens on local communities, attracting anti-social behaviour and reducing the viability of neighbourhoods. The government is committed to bringing empty homes back into use to make efficient use of housing stock and improve our local communities.

5.2 Local authorities have a range of powers and incentives available to them to tackle empty homes. These include charging additional council tax on properties left empty and unfurnished for a year or more; access to grant funding to bring empty homes back into use; and levers to enforce the sale of an empty property or take ownership or management of a property.

5.3 EDMOs are an enforcement power that allow local authorities to take over their management for up to seven years, during which they are able to take action to occupy the empty properties (e.g. by offering these properties on the private rental market).

5.4 Currently, local authorities are only able to apply to the First-tier Tribunal (Property Chamber) for an EDMO where the property has been empty for at least 2 years. They are also currently obliged to provide the First-tier Tribunal (Property Chamber) with information regarding whether the property is causing a nuisance for the community and whether the community is supportive of a proposed interim EDMO. Both these requirements became law in 2012 via the Housing (Empty Dwelling Management Orders) (Prescribed Period of Time and Additional Prescribed Requirements) (England) (Amendment) Order 2012.

5.5 The government wants to make EDMOs easier for local authorities to obtain and administer. To achieve this, this negative statutory instrument will remove the 2012 changes described in paragraph [5.4] above. Local authorities will no longer have to provide information about nuisance and community support to the tribunal, and the time a property must be unoccupied before an EDMO application can be made will be reduced to six months.

What was the previous policy, how is this different?

5.6 The EDMO regime was introduced by the Housing Act 2004, and enabling secondary legislation in 2006. The secondary legislation was subsequently amended in 2012.

5.7 The 2012 amendments meant that local authorities are only able to apply to the First-tier Tribunal (Property Chamber) for an EDMO where a property has been empty for at least 2 years. They are also obliged to provide the tribunal with information regarding whether the property is causing a nuisance for the community and whether the community is supportive of a proposed interim EDMO.

6. Legislative and Legal Context

How has the law changed?

6.1 This statutory instrument reduces the minimum time a property must be unoccupied before a local authority is eligible to apply for an EDMO from two years to six months. It also removes the requirement for local authorities to provide the First-tier Tribunal (Property Chamber) with information regarding whether the property is causing a nuisance for the community and whether the community is supportive of a proposed interim EDMO.

6.2 Properties will remain excepted from eligibility for an EDMO until 6 months after probate has been granted on a property. As this statutory instrument has reduced the overall eligibility time period, additional properties will likely fall in scope of EDMOs. However, they will remain excepted for 6 months after the grant of probate even if this falls after they have been empty for longer than 6 months prior to the granting of probate.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes and reverse the legal effect of the relevant parts of the 2012 statutory instrument.

How does this interact with other legislation?

6.4 The Renters' Rights Act 2025 abolished section 21 'no fault' evictions. Therefore homeowners will no longer be able to use this route to regain possession of the dwelling from tenants at the end of the EDMO. They will instead need to serve notice on the tenant using at least one of the grounds under section 8 of the Housing Act 1988, and regain possession via that route. This change has not been made through this statutory instrument, but is included in this note for context.

6.5 The Housing Act 1988 (as amended by the Renters' Rights Act 2025) prohibits landlords from re-letting a property within12 months of a relevant person serving a possession notice in reliance of ground 1 or 1A. These properties could therefore become eligible for EDMO whilst landlords are legally prohibited from reletting them. When deciding to grant an EDMO the Tribunal will assess a range of factors set out in statute. This includes, whether, if an EDMO is made, there is a reasonable

prospect of the property becoming occupied. This interaction between the Housing Act 1988 and EDMOs also existed when EDMOs were first introduced in 2006-2012.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation was required for this legislative change or undertaken.

7.2 The Ministry for Housing, Communities and Local Government engaged a range of stakeholders including local authorities, and representative organisations focused on reducing the number of empty homes in local authorities in England.

8. Applicable Guidance

8.1 The Ministry of Housing Communities and Local Government will publish updated guidance to support local authorities making EDMO applications in due course.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it was deemed to not meet the de minimis threshold over which a full impact assessment is required.

Impact on businesses, charities and voluntary bodies

9.2 We do not anticipate there to be a significant impact on business, charities or voluntary bodies.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There is no approach to monitoring this legislation.

10.2 The instrument does not include a statutory review clause because it is expected to fall below the de minimis threshold under the Better Regulation Framework and is not expected to impose significant burdens on business, charities or voluntary bodies.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement of compatibility is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").